HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION Nos.7960, 7962 and 7997 of 2006

Date: 20-04-2006

W.P.No.7960 of 2006 :

Between:

M/s. Mahalakshmi Durga Traders,

Vellampalli village, Maddipadu Mandal,

Prakasam District

…. Petitioner

and

The District Collector,

Ongole, Prakasam District and another.

…Respondents.

W.P.No.7962 of 2006 :

Between :

M/s. Sri Rama Traders,

Vellampalli village, Maddipadu Mandal,

Prakasam District

…. Petitioner

and

The District Collector,

Ongole, Prakasam District and another.

…Respondents.

W.P.No.7997 of 2006 :

Between :

M/s. Ganesh Traders,

Vellampalli village, Maddipadu Mandal,

Prakasam District

…. Petitioner

and

The District Collector,

Ongole, Prakasam District and another.

…Respondents.

HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION Nos.7960, 7962 and 7997 of 2006

COMMON ORDER :

These three writ petitions are filed by the petitioners aggrieved by the orders passed by the respondents for disposal of the seized stocks in public auction, as being arbitrary, illegal and violative of the provisions of the Essential Commodities Act.

The petitioners—Rice Mills obtained necessary licence for carrying on the business in rice. It is admitted that during the last year, the petitioners could not purchase the stock and purchased the same with delay, and when they offered to give levy to the Food Corporation of India (FCI), the authorities refused to receive the same stating that they have closed receiving levy rice from the millers by that time. While so, the Mandal Revenue Officer along with the Enforcement Deputy Tahsildar, Food Inspector and other staff inspected the petitioners' Rice Mills and found variation of stocks in the records and accordingly seized the stock and a case is registered under Section 6A of the Essential Commodities Act, 1955 before the District Collector. On such registration, the District Collector, by order dated 27-9-2005 ordered for interim disposal of the seized stocks, pending the 6-A proceedings. Questioning the same, the present writ petition is filed.

Heard learned counsel for the petitioners and the learned Assistant Government Pleader for Civil Supplies.

Under Clause 3 of the A.P. Rice Procurement (Levy) Order, 1984 (for brevity 'the Control Order') every licensed miller shall sell to the Food Corporation/State Corporation at the procurement price fifty percentage of the total quantity of each variety of rice conforming to specification owned by him which is held in stock on the date of commencement of the Order. Under Clause 6 of the Control Order, the rice required to be sold to the Food Corporation/State Corporation under Clause 3 and Clause 4 shall be delivered by the licensed miller or the licensed dealer, as the case may be, to the Purchase Officer in such lots, as per the general instructions issued by the Purchase Officer.

In view of the same, unless the levy is fixed calling upon the petitioners to deliver

such percentage of the stocks to the Food Corporation/State Corporation, prima-facie, it cannot be said that the petitioners have violated the provisions of the Control Order. In view of the same, if the petitioners' stocks were sold in public auction, it would cause loss to the petitioners. Therefore, there shall be stay of disposal of the stocks in public auction scheduled to be held on 21-04-2006 pursuant to the impugned order passed by the District Collector, until 6-A proceedings are concluded. The District Collector is hereby directed to conclude the 6-A proceedings within a period of two months from the date of receipt of a copy of this order. In the event, if the petitioners are agreeable to furnish the bank guarantee for the value of the stocks, as determined by the District Collector pending the 6A proceedings, the District Collector shall consider the same and release the seized stocks in favour of the petitioners.

The writ petitions are accordingly disposed of at the admission stage. No costs.

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A. GOPAL REDDY,J)

20-4-2006.

NOTE: Operative portion by wire

at party's cost.

(B/O)

Msr.

HON'BLE SRI JUSTICE A.GOPAL REDDY

20-04-2006

(Msr)